

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

STEPHANALE ADAMS,

Plaintiff,

v.

Case No. 2:06-cv-72
HON. ROBERT HOLMES BELL

DAVE BURNETT, et al.,

Defendants.

OPINION AND ORDER APPROVING MAGISTRATE JUDGE'S

REPORT AND RECOMMENDATION

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action on November 22, 2006. The Report and Recommendation was duly served on the parties. The Court has received objections from the plaintiff. In accordance with 28 U.S.C. § 636(b)(1), the Court has performed *de novo* consideration of those portions of the Report and Recommendation to which objection has been made. The Court now finds the objections to be without merit.

Plaintiff states that it was error for the magistrate judge to recommend summary judgment in this case, because plaintiff was not allowed to first engage in discovery. Plaintiff has not indicated how discovery might help him overcome defendants' motion for summary judgment. Moreover, plaintiff cannot establish that his religious or equal protection rights were violated by defendants. Defendants are entitled to establish some control over requests for religious diets.

Under the circumstances of this case, defendants acted reasonably in denying plaintiff's request for a religious diet.

THEREFORE, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge is approved and adopted as the opinion of the court.

The court must next decide whether an appeal of this action would be in good faith within the meaning of 28 U.S.C. § 1915(a)(3). *See McGore v. Wrigglesworth*, 114 F.3d 601, 611 (6th Cir. 1997). For the same reasons that the court grants defendants' motion for summary judgment, the court discerns no good-faith basis for an appeal. Should the plaintiff appeal this decision, the court will assess the \$455 appellate filing fee pursuant to § 1915(b)(1), *see McGore*, 114 F.3d at 610-11, unless plaintiff is barred from proceeding *in forma pauperis*, e.g., by the "three-strikes" rule of § 1915(g). If he is barred, he will be required to pay the \$455 appellate filing fee in one lump sum.

Date: January 31, 2007

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
CHIEF UNITED STATES DISTRICT JUDGE